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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA  
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8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 vs.

11 MICHAEL TERRELL BEALE,

12 Defendant.

Case No. 2:17-cr-00050-JAD-CWH

**ORDER**

13 Presently before the court is the government's Motion to Strike Defendant Beale's Notice of  
14 Assertion of Right to be Present in Court Unshackled (ECF No. 19), filed on June 19, 2017.  
15 Defendant did not file a response.

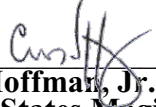
16 In *United States v. Sanchez-Gomez*, the Ninth Circuit Court of Appeals found that "[b]efore  
17 a presumptively innocent defendant may be shackled, the court must make an individualized  
18 decision that a compelling government purpose would be served and that shackles are the least  
19 restrictive means for maintaining security and order in the courtroom." *United States v.*  
20 *Sanchez-Gomez*, 859 F.3d 649, 661 (9th Cir. 2017). The court reasoned that this right "respects our  
21 foundational principle that defendants are innocent until proven guilty." *Id.*

22 Defendant relied on *Sanchez-Gomez* in filing his "Notice of Assertion of Right to be Present  
23 in Court Unshackled." (Notice (ECF No. 18).) As required by *Sanchez-Gomez*, the court will  
24 "decide whether the stated need for security outweighs the infringement on a defendant's right."  
25 *Id.* at 666. The court will announce its individualized determination regarding shackling either  
26 before or at the commencement of Defendant's next court appearance, which currently is the  
27 evidentiary hearing on Defendant's motion to suppress that is scheduled for November 6, 2017.  
28 (Min. Order (ECF No. 51).) Further, the court will deny the government's motion to strike

1 Defendant's notice. Requiring Defendant to file a motion to be presented in court unshackled  
2 would place the burden on a defendant to establish that he should not be shackled and would  
3 effectively disregard an individual's constitutional "right to be free from unwarranted restraints."  
4 *See id* at 660.

5 IT IS THEREFORE ORDERED that the government's Motion to Strike Defendant Beale's  
6 Notice of Assertion of Right to be Present in Court Unshackled (ECF No. 19) is DENIED.

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8 DATED: November 2, 2017

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11 C.W. Hoffman, Jr.  
12 United States Magistrate Judge  
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